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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91223324
Party	Defendant FremantleMedia North America, Inc
Correspondence Address	STEVEN M WEINBERG HOLMES WEINBERG PC 30765 PACIFIC COAST HIGHWAY, STE 411 MALIBU, CA 90265 UNITED STATES hwtrademarks@gmail.com, msalvatore@holmesweinberg.com
Submission	Motion to Compel Discovery
Filer's Name	Michael J. Salvatore
Filer's e-mail	msalvatore@holmesweinberg.com, hwtrademarks@gmail.com
Signature	/MJSalvatore/
Date	02/29/2016
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Serial No. 86/451,967

Codename Enterprises, Inc.,

Opposer,

v.

FremantleMedia North America, Inc.,

Applicant.

Opposition No. 91223324

**APPLICANT’S MOTION TO COMPEL OPPOSER’S RESPONSES TO APPLICANT’S
DISCOVERY REQUESTS AND TO TEST SUFFICIENCY OF OPPOSER’S
RESPONSES TO APPLICANT’S REQUESTS FOR ADMISSION**

Applicant FremantleMedia North America, Inc. (“Applicant”) hereby moves pursuant to 37 C.F.R. §§ 2.120(e) and 2.120(h) to compel Opposer Codename Enterprises, Inc.’s (“Opposer”) answers to Applicant’s First Set of Interrogatories, responses to Applicant’s First Set of Requests for the Production of Documents and Things, and to test sufficiency of Opposer’s responses to Applicant’s First Set of Requests for Admission (collectively the “Discovery Requests”).

Applicant served its Initial Disclosures through its counsel on November 16, 2015, by mailing a copy to Opposer’s designated correspondent, Edward Sussman, at Codename Enterprises, Inc., 111 West 67th St., 20B, New York, NY 10023. A copy is attached hereto as “**Exhibit A.**” Applicant subsequently served Applicant’s Discovery Requests through its counsel on January 5, 2016. Copies of the Discovery Requests are attached hereto as “**Exhibit B.**”

On January 29, 2016, Mr. Sussman sent an email to Applicant’s counsel requesting “a two week extension” to respond to the Discovery Requests, “due to various issues with technology, business and outside legal counsel,” with a proposed due date of February 19, 2016. This request was duly granted by Applicant’s counsel in good faith. On February 18, 2016, one

day before the due date of Opposer's responses to the Discovery Requests, Opposer filed a Motion to Suspend in View of Civil Litigation in this matter. (Dkt. No. 5). On February 23, 2016, Applicant's counsel sent an email to Mr. Sussman requesting Opposer's responses to the outstanding Discovery Requests. Without citing any authority to support his view, Mr. Sussman responded by offering only to provide "a response which will consist entirely of objections based on the pendency of [the] motion [to suspend]." Applicant's counsel responded to Mr. Sussman disagreeing with his view and reserving Applicant's right to file a Motion to Compel. A copy of the email chain reflecting the above communications is attached hereto as "**Exhibit C.**" To date, no response to the Discovery Requests has been received by Applicant or its counsel.

As demonstrated above, Applicant's counsel made a good faith effort pursuant to 37 C.F.R. § 2.120(e) and TBMP § 523.02 to confer with Opposer regarding Opposer's failure to respond to Applicant's Discovery Requests prior to filing this Motion. Applicant believes that Opposer requested an extension of time to respond to the Discovery Requests in bad faith and is aware of no authority supporting Opposer's view that responses to outstanding discovery requests may be withheld pending the disposition of a motion to suspend. Indeed, 37 CFR § 2.120(e) provides that "the filing of a motion to compel any disclosure or discovery shall not toll the time for a party to comply with any disclosure requirement or to respond to any outstanding discovery requests."

Accordingly, Applicant respectfully requests an order (1) finding that Opposer has waived any and all objections to Applicant's Discovery Requests pursuant to TBMP §§ 403.03(a), 405.04(a) and 406.04(a); and (2) compelling Opposer to respond to Applicant's Discovery Requests, without objections, with Applicant's Requests for Admission to Opposer deemed admitted. Applicant also requests that the Board suspend the instant proceeding pending disposition of the instant Motion pursuant to 37 C.F.R. § 2.120(e)(2) and TBMP § 510.03(a).

Dated: February 29, 2016

HOLMES WEINBERG, PC

By /s/ Michael J. Salvatore
Michael J. Salvatore
30765 Pacific Coast Highway, Suite 411
Malibu, California 90265

Telephone: (310) 457-6100

Email: msalvatore@holmesweinberg.com

Attorneys for FremantleMedia North America, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing MOTION TO COMPEL has been served on Opposer by emailing a copy on February 29, 2016, to:

Edward Sussman
Codename Enterprises, Inc.
ed@buzzr.com; emsussman@gmail.com

/s/ Michael J. Salvatore _____
Michael J. Salvatore

Exhibit A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Codename Enterprises, Inc.,

Opposer,

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Applicant.

Opposition No. 91223324

APPLICANT'S INITIAL DISCLOSURES

Applicant FremantleMedia North America, Inc. ("FremantleMedia"), by its attorneys Holmes Weinberg, P.C., hereby provides its Initial Disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1). These Initial Disclosures will be updated and modified as more information is determined.

Category 1: The name and, if known, the address and telephone number of each individual likely to have discoverable information – along with the subjects of that information – that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment:

1. Ron Garfield, Executive Vice President and General Manager: the selection, history, use, sales and marketing of the services under the BUZZR marks.
2. Isabelle Brender, Trademarks Manager, Legal and Business Affairs: the clearance of the BUZZR marks.
3. Julien Dal, Director, Business Development: the use and user demographics of the services under the BUZZR marks.

Others as may be identified as our investigation and discovery proceed.

The contact information for all of the foregoing people is c/o Steven M. Weinberg, Holmes Weinberg, PC, 30765 Pacific Coast Highway, Suite 411, Malibu, California 90265.

Category 2: A copy – or a description by category and location – of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

Subject to completion of an investigation of all of FremantleMedia's potentially relevant files, and supplements to these Initial Disclosures, the following are the descriptions by category and location of all documents and things that FremantleMedia has in its possession, custody or control that may be used to support its claims and defenses:

1. Documents relating to FremantleMedia's rights in the BUZZR marks, including prosecution history: c/o Steven M. Weinberg, Holmes Weinberg, PC, 30765 Pacific Coast Highway, Suite 411, Malibu, California 90265.
2. Documents relating to the selection, history, use, user demographics, marketing, promotion and sale of the services under the BUZZR marks: c/o Steven M. Weinberg, Holmes Weinberg, PC, 30765 Pacific Coast Highway, Suite 411, Malibu, California 90265.

In addition, FremantleMedia identifies the following electronically stored information as not reasonably accessible because of undue burden or cost: (a) backup tapes used for disaster recovery purposes; (b) email and other data contained on legacy systems that are unintelligible on successor systems; (c) data from acquired organizations that predate the acquisition of such organizations; (d) obsolete data and media that can no longer be read; (e) data from legacy systems that were migrated and are now accessible in a newer system, application, database or data store; (f) data on media created prior to an anticipated legal action that were not labeled and/or indexed sufficiently to know their contents and for which there is no reasonable basis to believe unique, responsive data for currently known or anticipated matters exist; (g) data destroyed on September 11, 2001; (h) electronic information in forms that would require recovery, restoration, or translation before it could be located, retrieved, reviewed or produced; and (i) any other form of electronic media that are not stored for immediate recovery in connection with FremantleMedia's records management processes. FremantleMedia may

identify other electronically stored information as not reasonably accessible based upon a number of factors, including but not limited to the scope of discovery requested and the quality of information available from other and more easily accessed systems.

DATED: November 16, 2015

HOLMES WEINBERG, PC

By: /s/ Michael J. Salvatore

Michael J. Salvatore

Attorneys for Applicant

FremantleMedia North America, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the APPLICANT'S INITIAL DISCLOSURES was served by USPS Priority mail to Opposer at the following address on November 23, 2015:

Edward Sussman
Codename Enterprises, Inc.
111 West 67th St., 20B
New York, NY 10023

Dated: November 16, 2015

By: /s/ Nelda Piper
Nelda Piper

Exhibit B

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re App. Serial No. 86/451,967

Codename Enterprises, Inc.,

Opposer,

v.

FremantleMedia North America, Inc.,

Applicant.

Opposition No. 91223324

**APPLICANT’S FIRST SET OF INTERROGATORIES
TO OPPOSER CODENAME ENTERPRISES, INC.**

Applicant FREMANTLEMEDIA NORTH AMERICA, INC. (“Applicant”) propounds the following APPLICANT’S FIRST SET OF INTERROGATORIES TO OPPOSER CODENAME ENTERPRISES, INC., and requests that, pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, and Rule 2.120 of the Trademark Rules of Practice (37 C.F.R. §2.120), Opposer serve answers to these Interrogatories at the offices of Applicant’s counsel, Steven M. Weinberg, Holmes Weinberg, PC, 30765 Pacific Coast Highway, Suite 411, Malibu, California 90265, within thirty (30) days from the service hereof.

DEFINITIONS AND INSTRUCTIONS

A. “OPPOSER” and “YOU” shall refer to CODENAME ENTERPRISES, INC., its corporate parents, subsidiaries and affiliates, if any, and their officers, directors, shareholders, employees, attorneys, agents or other representatives.

B. “APPLICANT” or “FREMANTLEMEDIA NORTH AMERICA, INC.” shall refer to Applicant FREMANTLEMEDIA NORTH AMERICA, INC., its employees, attorneys, agents, and other representatives.

C. The term “EVIDENCING” means showing, tending to show, proving, or tending to prove.

D. The term “RELATING” means concerning, relating to, referring to, commenting upon, describing, associated with, comprising or constituting.

E. The term “OPPOSER’S MARK” means the service mark that is the subject of United States Patent and Trademark Office (“USPTO”) Reg. No. 3890887, namely BUZZR.

F. The term “REGISTRATION” means the federal registration of OPPOSER’S MARK, Reg. No. 3890887.

G. The term “APPLICANT’S MARK” means the mark BUZZR that is the subject of USPTO App. Serial No. 86/451,967.

H. The “COMPLAINT” refers to the Notice of Opposition filed by OPPOSER in this proceeding.

I. The “ANSWER” refers to the Answer filed by Applicant in this action.

J. The term “PERSON” is defined as any natural person or any business, legal or governmental entity, or association.

K. The term “OPPOSER’S SERVICES” means the services offered under OPPOSER’S MARK as identified in USPTO Reg. No. 3890887, namely: (1) software for creating and managing web sites, creating, publishing, managing and organizing content for use on the Internet or an intranet; (2) providing a website for connecting sellers with buyers, including via connections between buyers on different websites on a common network, and buyers connected to the seller via external online social networks and social media websites; (3) providing advertising service to distribute advertisements for display on Internet, namely, in websites, social conversations over the Internet, emails, microblogs, blogs, electronic messages, instant messages, text messages, multimedia messages, social networks, status updates, forums, electronic bulletin boards; (4) building and maintaining websites; (5) design of homepages and websites; (6) design, creation, hosting and maintenance of websites for others, including computer software design for controlling self-service terminals; (7) designing websites for advertising purposes; and (8) Providing an online website for creating and hosting micro websites for businesses, non-profits, bloggers, hobbyists, publishers and others.

L. The term “CUSTOMER” means a THIRD-PARTY who retained or otherwise hired OPPOSER to provide any of OPPOSER’S SERVICES to it, whether or not such THIRD-PARTY paid OPPOSER in whole or part for the providing of the OPPOSER’S SERVICES.

M. The terms “COMMUNICATE” and “COMMUNICATION” mean the transmittal, expression or exchange of information, ideas, feelings or beliefs, opinions or thoughts of any kind in any MEDIUM by any means.

N. When referring to a document, to “IDENTIFY” means to give, to the extent known, the (i) type of document; (ii) title of the document; (iii) general subject matter; (iv) date of the document; (v) author(s), addressee(s), and recipient(s); and (vi) the production numbers assigned to the document (or, if no production numbers have been assigned, the number of pages in the document).

O. When referring to a PERSON, to “IDENTIFY” means to give, to the extent known, the (i) name of the PERSON; (ii) last known contact information of the PERSON, including without limitations such PERSON’s physical address, place of business, telephone number and email address; and (iii) the title such PERSON holds at any IDENTIFIED place of business.

P. The term “DESCRIBE” means to provide a complete and detailed explanation of the facts, circumstances, analysis, opinion and other information RELATING to subject matter of a specific interrogatory.

Q. The terms “ALL” and “EACH” shall be construed as all and each.

R. The connectives “AND” and “OR” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside its scope.

S. The use of the singular form of any word includes the plural and vice versa.

T. The word “DOCUMENT” means all documents and electronically stored information as contemplated by FRCP Rules 26 and 34, including: any written or graphic matter or other means of preserving thought or expression, and all tangible things from which information can be processed or transcribed, whether printed, recorded or reproduced by any other mechanical, electronic or computerized process, or written or produced by hand, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to: correspondence, memoranda, notes, logs, messages, letters, e-mail and other digital MEDIA, records, telegrams, teletype, telefax, bulletins, diaries, communications, interoffice and intraoffice telephone call diaries, chronological data, minutes, books, reports, charts, ledgers, invoices, worksheets, computer printouts and computer memory, word processing data, schedules, affidavits, contracts, agreements, patents, licenses, legal pleadings, transcripts, statistics, surveys, magazine or newspaper articles, stories or clippings, graphic or aural records or representations of any kind, including without limitation photographs, charts, graphs, microfiche, microfilm, videotape, recordings, motion pictures and electronic, mechanical or electric recordings or representations

of any kind (including, without limitation, tapes, cassettes, discs, and recordings). The term DOCUMENT includes documents containing COMMUNICATIONS. Accordingly, a request for DOCUMENTS includes DOCUMENTS containing relevant COMMUNICATIONS.

U. The term “THIRD PARTY” shall refer to any person or entity other than OPPOSER or APPLICANT.

V. The term “MEDIA” means the means by which a COMMUNICATION is made, including print and digital newspapers, magazines and other publications, radio, television, email, instant messaging, social media platforms (such as Facebook, Twitter, Instagram, Google and the like), websites, and other locations on the Internet. The term “MEDIUM” is the singular of MEDIA.

W. The term “CHANNELS OF TRADE” means all online and offline locations through which services or products are offered for sale or MARKETED or PROMOTED.

X. The term “DEMOGRAPHICS” as used in reference to consumers or potential consumers means the general characteristics of the consumers to whom the services are offered or are intended to be offered, including whether such consumers are business or individual consumers, the gender, age range, geographic locations, company type, range of annual salary or revenue and other such general characteristics, if known.

Y. The term “MARKETING” means ADVERTISING and PROMOTION.

Z. The term “ADVERTISING” means any communication intended to bring services offered under a service mark to the attention of potential and actual consumers and/or to induce the purchase or use of such services, whether general, direct or interactive in nature, including television and radio commercials, long and short form infomercials, print ads, point of purchase and other in-store displays, banner ads and other web-based ads, ads appearing on search engine results and social media websites such as Google and Facebook ads, and the like.

AA. The term “PROMOTION” means activities or events intended to bring services offered under a trademark or service mark to the attention of potential and actual consumers and/or to induce their purchase, whether general, direct or interactive in nature, including sweepstakes, contests, sponsored events, print or web-based coupons (an example of the latter being GroupOn), events that involve the use of services (for example, wine tasting events), and all other activities and events having as their purpose in whole or part to promote services offered or to be offered under a trademark or service mark.

BB. The term “BRAND IDENTITY” means the development of the look and feel and/or persona for a trademark or service mark, including logo development, package design and other activities usually associated with “brand identity.”

CC. If YOU refuse to respond in whole or in part to any Interrogatory, YOU must state each specific ground for YOUR refusal. If YOU claim privilege as a ground for not responding in whole or in part, describe the factual basis for YOUR claim of privilege in sufficient detail so as to permit the Board to adjudicate the validity of the claim. At a minimum, this must include for each response so withheld: the general subject matter of the information withheld; and the specific grounds for withholding the response. If YOU object to responding to any part of any Interrogatory, YOU must respond fully to the portions of the Interrogatory to which you do not object.

DD. Unless otherwise specified, these interrogatories pertain only to YOUR activities in the United States.

INTERROGATORIES

Please respond to the following interrogatories:

1. IDENTIFY DOCUMENTS EVIDENCING OPPOSER'S ongoing use in commerce from first use through the present of OPPOSER'S MARK for each of OPPOSER'S SERVICES.
2. IDENTIFY DOCUMENTS describing each of OPPOSER'S SERVICES.
3. IDENTIFY each CUSTOMER for whom/which OPPOSER has provided any of OPPOSER'S SERVICES RELATING TO the MARKETING of content relating to game shows.
4. For each CUSTOMER identified in the response to Interrogatory Number 3, IDENTIFY all DOCUMENTS RELATING to the OPPOSER'S SERVICES provided to that CUSTOMER.
5. For each CUSTOMER identified in the response to Interrogatory Number 3, IDENTIFY each of the OPPOSER'S SERVICES which involved the MARKETING of content relating to game shows, including the nature of the services provided, the type of content relating to game shows involved, and the date(s) when the OPPOSER'S SERVICES were provided.
6. DESCRIBE all of the steps taken by YOU and YOUR reason for selecting the OPPOSER'S MARK.
7. IDENTIFY all DOCUMENTS RELATING to all revenues derived by YOU from the MARKETING of content relating to game shows for each year in which YOU provided such services.
8. IDENTIFY all products or services offered or sold by YOU under OPPOSER'S MARK that are not identified in the REGISTRATION.

9. For each of OPPOSER'S SERVICES, IDENTIFY each of the CHANNELS OF TRADE through which it was, has been and is being offered, if any.
10. For each of OPPOSER'S SERVICES, IDENTIFY for each year in which it was or has been offered all of the ADVERTISING for each, the MEDIA in which each has been advertised.
11. For each of OPPOSER'S SERVICES, IDENTIFY for each year in which it has been offered all of the PROMOTIONS.
12. From OPPOSER's first use of OPPOSER'S MARK to the present, state, on a monthly basis, OPPOSER'S MARKETING expenses RELATING to the MARKETING of each of OPPOSER'S SERVICES, and IDENTIFY the type of MARKETING for which each such expense was made.
13. For each of OPPOSER'S SERVICES, IDENTIFY for each year in which such services were offered the total revenues derived by YOU from providing each.
14. IDENTIFY all of the CUSTOMERS of OPPOSER'S SERVICES.
15. IDENTIFY all PERSONS who have been in charge of or who have had primary responsibility for the MARKETING of each of OPPOSER'S SERVICES since OPPOSER'S MARK first was used for each of such OPPOSER'S SERVICES.
16. IDENTIFY all THIRD PARTIES YOU use, have used or intend to use in connection with the MARKETING of each of OPPOSER'S SERVICES.
17. IDENTIFY all of YOUR primary contacts at each of the PROMOTION, ADVERTISING and BRAND IDENTITY agencies YOU have used, now use or intend to use in connection with the MARKETING of each of OPPOSER'S SERVICES.
18. IDENTIFY all DOCUMENTS RELATING to YOUR enforcement of OPPOSER'S MARK under the U.S. Trademark Act and/or analogous state trademark or unfair competition laws.
19. DESCRIBE in detail all of YOUR enforcement efforts RELATING to OPPOSER'S MARK, including the names of the THIRD PARTIES against which the enforcement efforts were made.
20. IDENTIFY all THIRD PARTY marks containing the words BUZZR or BUZZER known to OPPOSER.

21. IDENTIFY all of the evidence OPPOSER intends to offer as EVIDENCING alleged actual confusion between OPPOSER'S MARK and APPLICANT'S MARK.

22. IDENTIFY all COMMUNICATIONS to or from OPPOSER and THIRD PARTIES in which APPLICANT or the services offered under APPLICANT'S MARK are mentioned or otherwise discussed.

23. DESCRIBE all facts EVIDENCING YOUR allegation in the COMPLAINT that "Freemantle [*sic*] has already launched multiple infringing entities using the unregistered mark BUZZR."

24. IDENTIFY all DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 6 of the COMPLAINT.

25. DESCRIBE all facts EVIDENCING each of YOUR allegations in Paragraph 8 of the COMPLAINT.

26. IDENTIFY all DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 8 of the COMPLAINT.

27. DESCRIBE all facts EVIDENCING YOUR allegation in the COMPLAINT that "Freemantle's [*sic*] goal is to saturate the mass market in the United States with the brand BUZZR, making it synonymous with its digital and broadcast channels of the same name."

28. IDENTIFY all DOCUMENTS EVIDENCING YOUR allegation in the COMPLAINT that "Freemantle's [*sic*] goal is to saturate the mass market in the United States with the brand BUZZR, making it synonymous with its digital and broadcast channels of the same name."

29. DESCRIBE all facts EVIDENCING each of YOUR allegations in Paragraph 10 of the COMPLAINT.

30. DESCRIBE all facts EVIDENCING YOUR allegation in the COMPLAINT that "Allowing registration of the mark has and will continue to result in both forward confusion and in reverse confusion, where a junior (or new) user adopts a mark already in use by a senior user and the junior user may become more recognized for the trademark than the senior user through advertising and other expenditures used to promote the mark."

31. IDENTIFY all DOCUMENTS EVIDENCING YOUR allegation in the COMPLAINT that "Codename Enterprises, Inc. ("Opponent") has operated a business under the brand name "BUZZR" since April of 2009."

32. IDENTIFY all DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 15 of the COMPLAINT.
33. IDENTIFY all DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 16 of the COMPLAINT.
34. DESCRIBE all facts EVIDENCING each of YOUR allegations in Paragraph 17 of the COMPLAINT.
35. IDENTIFY all DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 17 of the COMPLAINT.
36. IDENTIFY all DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 18 of the COMPLAINT.
37. DESCRIBE all facts EVIDENCING YOUR allegation in the COMPLAINT that “Publishers have the option to use the Buzzr.com domain as part of their brand identify.”
38. IDENTIFY all DOCUMENTS EVIDENCING YOUR allegation in the COMPLAINT that “Publishers have the option to use the Buzzr.com domain as part of their brand identify.”
39. IDENTIFY each of the “Publishers” that use the Buzzr.com domain as part of their brand identity, including each and every website that features the Buzzr.com domain in this manner.
40. DESCRIBE all facts EVIDENCING YOUR allegation in the COMPLAINT that “Traditional media companies, such as Freemantle [*sic*], and social media publishing companies, such as BUZZR, compete against each other for the same advertising dollars to reach the same or similar target audiences.”
41. IDENTIFY all DOCUMENTS EVIDENCING YOUR allegation in the COMPLAINT that “Traditional media companies, such as Freemantle [*sic*], and social media publishing companies, such as BUZZR, compete against each other for the same advertising dollars to reach the same or similar target audiences.”
42. DESCRIBE all facts EVIDENCING each of YOUR allegations in Paragraph 24 of the COMPLAINT.
43. DESCRIBE all facts EVIDENCING each of YOUR allegations in Paragraph 25 of the COMPLAINT.

44. IDENTIFY all DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 26 of the COMPLAINT.

45. DESCRIBE all facts EVIDENCING each of YOUR allegations in Paragraph 27 of the COMPLAINT.

46. IDENTIFY all DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 28 of the COMPLAINT.

47. DESCRIBE all facts EVIDENCING YOUR allegation in the COMPLAINT that “an unknown but potentially significant number of examples of actual confusion were averted by Opponent by their actions, upon information and belief, to cause YouTube to drop Plaintiff’s “BuzzrWebsites” channel in order to steer traffic toward their own BUZZR YouTube channel. Significant actual confusion on YouTube should be based on Freemantle’s [sic] actions and so as not to award Freemantle [sic] for their malicious behavior.”

48. IDENTIFY all DOCUMENTS EVIDENCING YOUR allegation in the COMPLAINT that “an unknown but potentially significant number of examples of actual confusion were averted by Opponent by their actions, upon information and belief, to cause YouTube to drop Plaintiff’s “BuzzrWebsites” channel in order to steer traffic toward their own BUZZR YouTube channel. Significant actual confusion on YouTube should be based on Freemantle’s [sic] actions and so as not to award Freemantle [sic] for their malicious behavior.”

49. IDENTIFY all DOCUMENTS EVIDENCING YOUR allegation in the COMPLAINT that “#buzzr has been used by Plaintiff and Plaintiff’s Twitter followers since at least 2010.”

50. IDENTIFY the number of times OPPOSER or its Twitter followers have used #buzzr since 2010.

51. DESCRIBE all facts EVIDENCING each of YOUR allegations in Paragraph 31 of the COMPLAINT.

52. IDENTIFY all DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 31 of the COMPLAINT.

53. DESCRIBE all facts EVIDENCING each of YOUR allegations in Paragraph 32 of the COMPLAINT.

54. IDENTIFY for each of the foregoing Interrogatories each PERSON who provided information or DOCUMENTS RELATING to YOUR response to each.

55. IDENTIFY each expert consulted by OPPOSER in connection with this proceeding.

56. IDENTIFY all DOCUMENTS provided to YOU by each expert, including all written reports contemplated by F.R.C.P 26(a)(2)(b).

57. IDENTIFY all DOCUMENTS RELATING to each and every survey, study or poll conducted by or on behalf of YOU in connection with this proceeding.

58. IDENTIFY all DOCUMENTS to be offered by YOU at trial (during your Testimony Period) in this proceeding.

59. DESCRIBE OPPOSER'S policy with respect to retention of documents, including business records.

Dated: January 5, 2016

HOLMES WEINBERG, PC

By: /Steven M. Weinberg/_____
Steven M. Weinberg

30765 Pacific Coast Highway, Suite 411
Malibu, California 90265
Telephone: (310) 457-6100
Email: smweinberg@holmesweinberg.com

Attorneys for FREMANTLEMEDIA NORTH AMERICA, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **APPLICANT'S FIRST SET OF INTERROGATORIES TO OPPOSER CODENAME ENTERPRISES, INC.** has been served on Opposer by mailing a copy on January 5, 2016 via United States Postal Service Priority Mail, postage prepaid, to:

Edward Sussman
Codename Enterprises, Inc.
111 West 67th Street, Suite 20B
New York, NY 10023

/Nelda Piper/
Nelda Piper

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Opposition No. 91223324

**APPLICANT’S FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS
AND THINGS TO OPPOSER CODENAME ENTERPRISES, INC.**

Applicant FREMANTLEMEDIA NORTH AMERICA, INC. (“Applicant”) propounds the following APPLICANT’S FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO OPPOSER CODENAME ENTERPRISES, INC., and requests that, pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, and Rule 2.120 of the Trademark Rules of Practice (37 C.F.R. §2.1.20), all documents and things responsive to these Requests be produced at the offices of Applicant’s counsel, Steven M. Weinberg, Holmes Weinberg, PC, 30765 Pacific Coast Highway, Suite 411, Malibu, California 90265, within thirty (30) days from the service hereof.

DEFINITIONS AND INSTRUCTIONS

A. “OPPOSER” and “YOU” shall refer to CODENAME ENTERPRISES, INC., its corporate parents, subsidiaries and affiliates, if any, and their officers, directors, shareholders, employees, attorneys, agents or other representatives.

B. “APPLICANT” or “FREMANTLEMEDIA NORTH AMERICA, INC.” shall refer to Applicant FREMANTLEMEDIA NORTH AMERICA, INC., its employees, attorneys, agents, and other representatives.

C. The term “EVIDENCING” means showing, tending to show, proving, or tending to prove.

D. The term “RELATING” means concerning, relating to, referring to, commenting upon, describing, associated with, comprising or constituting.

E. The term “OPPOSER’S MARK” means the service mark that is the subject of United States Patent and Trademark Office (“USPTO”) Reg. No. 3890887, namely BUZZR.

F. The term “REGISTRATION” means the federal registration of OPPOSER’S MARK, Reg. No. 3890887.

G. The term “APPLICANT’S MARK” means the mark BUZZR that is the subject of USPTO App. Serial No. 86/451,967.

H. The “COMPLAINT” refers to the Notice of Opposition filed by OPPOSER in this proceeding.

I. The “ANSWER” refers to the Answer filed by APPLICANT in this action.

J. The term “PERSON” is defined as any natural person or any business, legal or governmental entity, or association.

K. The term “OPPOSER’S SERVICES” means the services offered under OPPOSER’S MARK as identified in USPTO Reg. No. 3890887, namely: (1) software for creating and managing web sites, creating, publishing, managing and organizing content for use on the Internet or an intranet; (2) providing a website for connecting sellers with buyers, including via connections between buyers on different websites on a common network, and buyers connected to the seller via external online social networks and social media websites; (3) providing advertising service to distribute advertisements for display on Internet, namely, in websites, social conversations over the Internet, emails, microblogs, blogs, electronic messages, instant messages, text messages, multimedia messages, social networks, status updates, forums, electronic bulletin boards; (4) building and maintaining websites; (5) design of homepages and websites; (6) design, creation, hosting and maintenance of websites for others, including computer software design for controlling self-service terminals; (7) designing websites for advertising purposes; and (8) Providing an online website for creating and hosting micro websites for businesses, non-profits, bloggers, hobbyists, publishers and others.

L. The term “CUSTOMER” means a THIRD-PARTY who retained or otherwise hired OPPOSER to provide any of OPPOSER’S SERVICES to it, whether or not such THIRD-PARTY paid OPPOSER in whole or part for the providing of the OPPOSER’S SERVICES.

M. The terms “COMMUNICATE” and “COMMUNICATION” mean the transmittal, expression or exchange of information, ideas, feelings or beliefs, opinions or thoughts of any kind in any MEDIUM by any means.

N. When referring to a document, to “IDENTIFY” means to give, to the extent known, the (i) type of document; (ii) title of the document; (iii) general subject matter; (iv) date of the document; (v) author(s), addressee(s), and recipient(s); and (vi) the production numbers assigned to the document (or, if no production numbers have been assigned, the number of pages in the document).

O. When referring to a PERSON, to “IDENTIFY” means to give, to the extent known, the (i) name of the PERSON; (ii) last known contact information of the PERSON, including without limitations such PERSON’s physical address, place of business, telephone number and email address; and (iii) the title such PERSON holds at any IDENTIFIED place of business.

P. The terms “ALL” and “EACH” shall be construed as all and each.

Q. The connectives “AND” and “OR” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside its scope.

R. The use of the singular form of any word includes the plural and vice versa.

S. The word “DOCUMENT” means all documents and electronically stored information as contemplated by FRCP Rules 26 and 34, including: any written or graphic matter or other means of preserving thought or expression, and all tangible things from which information can be processed or transcribed, whether printed, recorded or reproduced by any other mechanical, electronic or computerized process, or written or produced by hand, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including but not limited to: correspondence, memoranda, notes, logs, messages, letters, e-mail and other digital MEDIA, records, telegrams, teletype, telefax, bulletins, diaries, communications, interoffice and intraoffice telephone call diaries, chronological data, minutes, books, reports, charts, ledgers, invoices, worksheets, computer printouts and computer memory, word processing data, schedules, affidavits, contracts, agreements, patents, licenses, legal pleadings, transcripts, statistics, surveys, magazine or newspaper articles, stories or clippings, graphic or aural records or representations of any kind, including without limitation photographs, charts, graphs, microfiche, microfilm, videotape, recordings, motion pictures and electronic, mechanical or electric recordings or representations of any kind (including, without limitation, tapes, cassettes, discs, and recordings). The term DOCUMENT includes documents containing COMMUNICATIONS. Accordingly, a request for DOCUMENTS includes DOCUMENTS containing relevant COMMUNICATIONS.

T. The term “THIRD-PARTY” shall refer to any person or entity other than OPPOSER or APPLICANT.

U. The term “MEDIA” means the means by which a COMMUNICATION is made, including print and digital newspapers, magazines and other publications, radio, television, email, instant messaging, social media platforms (such as Facebook, Twitter, Instagram, Google and the like), websites, and other locations on the Internet. The term “MEDIUM” is the singular of MEDIA.

V. The term “CHANNELS OF TRADE” means all online and offline locations through which services or products are offered for sale or MARKETED or PROMOTED.

W. The term “DEMOGRAPHICS” as used in reference to consumers or potential consumers means the general characteristics of the consumers to whom the services are offered or are intended to be offered, including whether such consumers are business or individual consumers, the gender, age range, geographic locations, company type, range of annual salary or revenue and other such general characteristics, if known.

X. The term “MARKETING” means ADVERTISING and PROMOTION.

Y. The term “ADVERTISING” means any communication intended to bring services under a service mark to the attention of potential and actual consumers and/or to induce their purchase, whether general, direct or interactive in nature, including television and radio commercials, long and short form infomercials, print ads, point of purchase and other in-store displays, banner ads and other web-based ads, ads appearing on search engine results and social media websites such as Google and Facebook ads, and the like.

Z. The term “PROMOTION” means activities or events intended to bring services offered under a trademark or service mark to the attention of potential and actual consumers and/or to induce the purchase or use of such services, whether general, direct or interactive in nature, including sweepstakes, contests, sponsored events, print or web-based coupons (an example of the latter being GroupOn), events that involve the use of services (for example, wine tasting events), and all other activities and events having as their purpose in whole or part to promote services offered or to be offered under a trademark or service mark.

AA. The term “BRAND IDENTITY” means the development of the look and feel and/or persona for a trademark or service mark, including logo development, package design and other activities usually associated with “brand identity.”

BB. If YOU refuse to produce any DOCUMENT responsive in whole or in part to any Request, YOU must state each specific ground for YOUR refusal. If YOU claim privilege as a ground for not producing any DOCUMENT in whole or in part, describe the factual basis for

YOUR claim of privilege in sufficient detail so as to permit the Court to adjudicate the validity of the claim. At a minimum, this must include for each DOCUMENT so withheld: the author(s); the addressee(s) and person(s) copied; the general subject matter of the DOCUMENT; the date of the DOCUMENT; and the specific grounds for withholding the DOCUMENT. If YOU object to producing any part of any DOCUMENT, YOU must produce the portions of the DOCUMENT to which you do not object.

CC. If any portion of a DOCUMENT is responsive to this Request, then the entire DOCUMENT shall be produced. DOCUMENTS produced pursuant to this Request shall be produced in the order in which they appear in YOUR files, and shall not be shuffled or otherwise rearranged. DOCUMENTS that in their original condition were stapled, clipped, or otherwise fastened together shall be produced in such form.

DD. Unless otherwise specified, these requests pertain only to YOUR activities in the United States.

REQUESTS FOR PRODUCTION

Please produce the following DOCUMENTS:

1. DOCUMENTS EVIDENCING OPPOSER'S ONGOING use in commerce of OPPOSER'S MARK for each of the OPPOSER'S SERVICES from the first use through the present.
2. DOCUMENTS describing each of the OPPOSER'S SERVICES.
3. For each of OPPOSER'S SERVICES, DOCUMENTS sufficient to IDENTIFY each of the CHANNELS OF TRADE through which it was, has been and/or is being offered.
4. DOCUMENTS identifying the first use in commerce of OPPOSER'S MARK for each of the OPPOSER'S SERVICES.
5. For each of OPPOSER'S SERVICES, DOCUMENTS that IDENTIFY all of the ADVERTISING for each, and the media in which each was advertised, for each year in which each of the OPPOSER'S SERVICES was offered.
6. For each of OPPOSER'S SERVICES, DOCUMENTS sufficient to IDENTIFY all of the PROMOTIONS for each, for each year in which each of the OPPOSER'S SERVICES was offered.
7. For each of OPPOSER'S SERVICES, DOCUMENTS sufficient to IDENTIFY the DEMOGRAPHICS of the consumers of each.

8. For each of OPPOSER'S SERVICES, DOCUMENTS sufficient to IDENTIFY for each year in which such services were offered, the total revenues derived by YOU from providing each.
9. DOCUMENTS sufficient to IDENTIFY the total number of CUSTOMERS of each of OPPOSER'S SERVICES.
10. DOCUMENTS sufficient to IDENTIFY all PERSONS who have been in charge of or have had primary responsibility for the marketing and sales of each of OPPOSER'S SERVICES since OPPOSER'S MARK was first used.
11. DOCUMENTS sufficient to IDENTIFY all PROMOTION agencies or other THIRD PARTIES YOU use or intend to use in connection with the PROMOTION or other MARKETING of each of OPPOSER'S SERVICES.
12. DOCUMENTS sufficient to IDENTIFY all ADVERTISING agencies or other THIRD PARTIES YOU use or intend to use in connection with the ADVERTISING or other MARKETING of each of OPPOSER'S SERVICES.
13. DOCUMENTS sufficient to IDENTIFY all BRAND IDENTITY agencies or other THIRD PARTIES YOU use or intend to use RELATING to OPPOSER'S MARK.
14. DOCUMENTS sufficient to IDENTIFY all of YOUR primary contacts at each of the PROMOTION, ADVERTISING and BRAND IDENTITY agencies YOU have used or intend to use in connection with the MARKETING of each of OPPOSER'S SERVICES.
15. All DOCUMENTS RELATING to YOUR enforcement of OPPOSER'S MARK under the U.S. Trademark Act and/or analogous state trademark or unfair competition laws.
16. All DOCUMENTS RELATING to alleged actual confusion between OPPOSER'S MARK and APPLICANT'S MARK.
17. All DOCUMENTS in which APPLICANT, APPLICANT'S MARK or the services offered under APPLICANT'S MARK appear.
18. All DOCUMENTS EVIDENCING YOUR allegation in the COMPLAINT that "Freemantle [*sic*] has already launched multiple infringing entities using the unregistered mark BUZZR."
19. All DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 6 of the COMPLAINT.

20. All DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 8 of the COMPLAINT.

21. All DOCUMENTS EVIDENCING YOUR allegation in the COMPLAINT that “Freemantle’s [sic] goal is to saturate the mass market in the United States with the brand BUZZR, making it synonymous with its digital and broadcast channels of the same name.”

22. All DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 10 of the COMPLAINT.

23. All DOCUMENTS EVIDENCING YOUR allegation in the COMPLAINT that “Allowing registration of the mark has and will continue to result in both forward confusion and in reverse confusion, where a junior (or new) user adopts a mark already in use by a senior user and the junior user may become more recognized for the trademark than the senior user through advertising and other expenditures used to promote the mark.”

24. All DOCUMENTS EVIDENCING YOUR allegation in the COMPLAINT that “Codename Enterprises, Inc. (“Opponent”) has operated a business under the brand name “BUZZR” since April of 2009.”

25. All DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 15 of the COMPLAINT.

26. All DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 16 of the COMPLAINT.

27. All DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 17 of the COMPLAINT.

28. All DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 18 of the COMPLAINT.

29. All DOCUMENTS EVIDENCING YOUR allegation in the COMPLAINT that “Publishers have the option to use the Buzzr.com domain as part of their brand identify.”

30. All DOCUMENTS EVIDENCING YOUR allegation in the COMPLAINT that “Traditional media companies, such as Freemantle [sic], and social media publishing companies, such as BUZZR, compete against each other for the same advertising dollars to reach the same or similar target audiences.”

31. All DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 24 of the COMPLAINT.

32. All DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 25 of the COMPLAINT.

33. All DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 26 of the COMPLAINT.

34. All DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 27 of the COMPLAINT.

35. All DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 28 of the COMPLAINT.

36. All DOCUMENTS EVIDENCING YOUR allegations in the COMPLAINT that “an unknown but potentially significant number of examples of actual confusion were averted by Opponent by their actions, upon information and belief, to cause YouTube to drop Plaintiff’s “BuzzrWebsites” channel in order to steer traffic toward their own BUZZR YouTube channel. Significant actual confusion on YouTube should be based on Freemantle’s [*sic*] actions and so as not to award Freemantle [*sic*] for their malicious behavior.”

37. All DOCUMENTS EVIDENCING YOUR allegation in the COMPLAINT that “#buzzr has been used by Plaintiff and Plaintiff’s Twitter followers since at least 2010.”

38. All DOCUMENTS EVIDENCING YOUR allegation in the COMPLAINT that “Opponent’s valuable domain name, <http://buzzr.com>, may lose significant or all of its value as if Defendant is allowed to register the BUZZR mark.”

39. All DOCUMENTS EVIDENCING YOUR allegation in the COMPLAINT that “a new company, other than Opponent, is likely to eventually be legally prohibited from using the name BUZZR in under any trademark category and is equally likely to be unattractive to a new business fearing confusion with Freemantle’s [*sic*] use of BUZZR, thereby potentially rendering the valuable domain name Buzzr.com worthless in a resale.”

40. All DOCUMENTS EVIDENCING each of YOUR allegations in Paragraph 32 of the COMPLAINT.

41. All DOCUMENTS EVIDENCING YOUR MARKETING of content relating to game shows.

42. All DOCUMENTS EVIDENCING YOUR revenues derived from the MARKETING of content relating to game shows in each year since YOU first started MARKETING content relating to game shows.

43. All DOCUMENTS referenced, IDENTIFIED or relied on in responding to each of APPLICANT'S FIRST SET OF INTERROGATORIES TO OPPOSER.

44. All DOCUMENTS provided to YOU by each expert, including all written reports contemplated by F.R.C.P 26(a)(2)(b).

45. All DOCUMENTS RELATING to each and every survey, study or poll conducted by or on behalf of YOU in connection with this proceeding.

46. All DOCUMENTS RELATING to each and every survey, study or poll conducted by or on behalf of YOU RELATING to OPPOSER'S MARK.

47. All DOCUMENTS to be offered by YOU at trial (during your Testimony Period) in this proceeding.

48. All DOCUMENTS RELATING to OPPOSER'S policy with respect to retention of documents, including business records.

Dated: January 5, 2016

HOLMES WEINBERG, PC

By /Steven M. Weinberg/
Steven M. Weinberg

30765 Pacific Coast Highway, Suite 411
Malibu, California 90265
Telephone: (310) 457-6100
Email: smweinberg@holmesweinberg.com

Attorneys for FREMANTLEMEDIA NORTH AMERICA, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **APPLICANT'S FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO OPPOSER CODENAME ENTERPRISES, INC.** has been served on Opposer by mailing a copy on January 5, 2016, via United States Postal Service Priority Mail, postage prepaid, to:

Edward Sussman
Codename Enterprises, Inc.
111 West 67th Street, Suite 20B
New York, NY 10023

/Nelda Piper/
Nelda Piper

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re App. Serial No. 86/451,967

Codename Enterprises, Inc.,

Opposer,

v.

FremantleMedia North America, Inc.,

Applicant.

Opposition No. 91223324

APPLICANT’S FIRST SET OF REQUESTS FOR ADMISSION TO
OPPOSER CODENAME ENTERPRISES, INC.

Applicant FREMANTLEMEDIA NORTH AMERICA, INC. (“Applicant”) propounds the following APPLICANT’S FIRST SET OF REQUESTS FOR ADMISSION TO OPPOSER CODENAME ENTERPRISES, INC., and requests that, pursuant to Rules 26 and 36 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice (37 C.F.R. § 2.120), all admissions and documents responsive to these Requests be produced at the offices of Respondent’s counsel, Steven M. Weinberg, Holmes Weinberg, PC, 30765 Pacific Coast Highway, Suite 411, Malibu, California 90265, within thirty (30) days from the service hereof.

DEFINITIONS AND INSTRUCTIONS

A. “OPPOSER” and “YOU” shall refer to CODENAME ENTERPRISES, INC., its corporate parents, subsidiaries and affiliates, if any, and their officers, directors, shareholders, employees, attorneys, agents or other representatives.

B. “APPLICANT” or “FREMANTLEMEDIA NORTH AMERICA, INC.” shall refer to Applicant FREMANTLEMEDIA NORTH AMERICA, INC., its employees, attorneys, agents, and other representatives.

C. The term “OPPOSER’S MARK” means the service mark that is the subject of United States Patent and Trademark Office (“USPTO”) Reg. No. 3890887, namely BUZZR.

D. The term “REGISTRATION” means the federal registration of OPPOSER’S MARK, Reg. No. 3890887.

E. The term “APPLICANT’S MARK” means the mark BUZZR that is the subject of USPTO App. Serial No. 86/451,967.

F. The term “OPPOSER’S SERVICES” means the services offered under OPPOSER’S MARK as identified in USPTO Reg. No. 3890887, namely: (1) software for creating and managing web sites, creating, publishing, managing and organizing content for use on the Internet or an intranet; (2) providing a website for connecting sellers with buyers, including via connections between buyers on different websites on a common network, and buyers connected to the seller via external online social networks and social media websites; (3) providing advertising service to distribute advertisements for display on Internet, namely, in websites, social conversations over the Internet, emails, microblogs, blogs, electronic messages, instant messages, text messages, multimedia messages, social networks, status updates, forums, electronic bulletin boards; (4) building and maintaining websites; (5) design of homepages and websites; (6) design, creation, hosting and maintenance of websites for others, including computer software design for controlling self-service terminals; (7) designing websites for advertising purposes; and (8) Providing an online website for creating and hosting micro websites for businesses, non-profits, bloggers, hobbyists, publishers and others.

G. The term “CUSTOMER” means a THIRD-PARTY who retained or otherwise hired OPPOSER to provide any of OPPOSER’S SERVICES to it, whether or not such THIRD-PARTY paid OPPOSER in whole or part for the providing of the OPPOSER’S SERVICES.

H. The terms “RELATE” or “RELATING” mean concerning, relating to, referring to, commenting upon, describing, associated with, comprising or constituting.

I. The term “DEMOGRAPHICS” as used in reference to consumers or potential consumers means the general characteristics of the consumers to whom the services are offered or are intended to be offered, including whether such consumers are business or individual consumers, the gender, age range, geographic locations, company type, range of annual salary or revenue and other such general characteristics, if known.

J. The term “ADVERTISING” means any communication intended to bring services offered under a service mark to the attention of potential and actual consumers and/or to induce the use or purchase of such services, whether general, direct or interactive in nature, including television and radio commercials, long and short form infomercials, print ads, point of purchase and other in-store displays, banner ads and other web-based ads, ads appearing on search engine results and social media websites such as Google and Facebook ads, and the like.

K. If YOU cannot truthfully admit or deny a request, YOU must set forth in detail the reason why. If YOU claim “lack of information or knowledge” as the reason for failure to admit or deny, YOU must also state that YOU have made reasonable inquiry and that the information known or readily obtainable is insufficient to enable YOU to admit or deny the request.

L. Unless otherwise specified, these requests pertain only to YOUR activities in the United States.

REQUESTS FOR ADMISSION

Please admit the truth of the following Requests:

1. OPPOSER is not a television production company or television network.
2. OPPOSER’S SERVICES do not include creation, development, production or distribution of content in the field of game shows.
3. OPPOSER has not advertised or promoted content in the field of game shows under OPPOSER’S MARK.
4. OPPOSER’S SERVICES are offered exclusively to CUSTOMERS who desire to design, build or host websites or microsites.
5. OPPOSER’S SERVICES RELATE exclusively to the design, building and hosting of websites and microsites.
6. All of OPPOSER’S SERVICES and products are described on the website having the URL www.buzzr.com.
7. The attached document (labeled as “Exhibit A”) was produced and/or created by OPPOSER.

8. The attached document (labeled as “Exhibit A”) is genuine, authentic, true and accurate.
9. The attached document (labeled as “Exhibit B”) was produced and/or created by OPPOSER.
10. The attached document (labeled as “Exhibit B”) is genuine, authentic, true and accurate.
11. The attached document (labeled as “Exhibit C”) was produced and/or created by OPPOSER.
12. The attached document (labeled as “Exhibit C”) is genuine, authentic, true and accurate.

DATED: January 5, 2016

HOLMES WEINBERG, PC

By: /Steven M. Weinberg/
Steven M. Weinberg

30765 Pacific Coast Highway, Suite 411
Malibu, California 90265
Telephone: (310) 457-6100
Email: smweinberg@holmesweinberg.com

Attorneys for FREMANTLEMEDIA
NORTH AMERICA, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **APPLICANT'S FIRST SET OF REQUESTS FOR ADMISSION TO OPPOSER CODENAME ENTERPRISES, INC.** has been served on Opposer by mailing a copy on January 5, 2016, via United States Postal Service Priority Mail, postage prepaid, to:

Edward Sussman
Codename Enterprises, Inc.
111 West 67th Street, Suite 20B
New York, NY 10023

/Nelda Piper/
Nelda Piper

Exhibit A



Set Your Sites Higher

info@buzzr.com | (917) 410-1490

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BUZZR WEB CONTENT MANAGEMENT SYSTEM PRODUCTS

SMB SERVICE PROVIDER WEB CONTENT MANAGEMENT

Buzzr is a private label multi-site CMS solution in the Cloud with on demand, one-click Quickstart website clones. Use Buzzr's All-in-One solution to design, develop and run social-media rich websites or micro-sites for your clients/end users.

[Learn More](#)

MULTI-SITE WEB CONTENT MANAGEMENT

Need 1,000 websites made instantly with the same configuration? That's our specialty. We're built on top of Drupal, the most robust open source framework in existence. We also offer a dynamically updating centralized directory of sites' content.

[Learn More](#)

Request More Information

Name: *

E-mail: *

Phone: *

Subject: *

Message: *

CAPTCHA

This question is for testing whether you are a human visitor and to prevent automated spam submissions.



Submit

Newsletter

Enter your email address to receive the latest marketing tips & news.

Email Address *

Subscribe

Follow us on  Twitter



 Like  Share You and 579 others like this. 579 people like this. Be the first of your

Exhibit B



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OUTSOURCED WEBSITE PRODUCTION, DESIGN & CUSTOMER SUPPORT

DEVELOPMENT & INTEGRATION

Buzzr can be customized at your request with [Drupal's 10,000+ modules](#). Or, we can develop new modules just for your environment. In addition, we can integrate Buzzr with a variety of external services, such as intranets, CRMs, e-commerce suites. We can also create custom APIs.

[Learn More](#)

OUTSOURCED WEBSITE PRODUCTION, DESIGN AND CUSTOMER SUPPORT SERVICES

We provide outsourced private-label website production, custom design and customer support services for Buzzr clients who want us to provide a turn-key service for their SMB or small organization customers. We have both on shore and offshore resources and can manage clients selling thousands of websites/mobile websites each month. Our designers also create custom Quickstarts in a huge variety of verticals for the Buzzr Enterprise Edition. Past examples of heavily customized vertical templates include restaurants, hotels, retail hardware stores, churches, non-profits and dentists.

[Learn More](#)

CONTENT MARKETING

You want to make your presence felt online. A website with good content is a great starting point. But you need more. Standing out from the crowd means knowing how to best leverage Twitter, Facebook, Instagram and Wikipedia. We're content experts. Our roots are in publishing. We built Buzzr based on decades of experience writing and editing for newspapers, magazines and academic publications. We've worked with large media companies, small businesses, venture-backed tech companies, prominent CEOs and many others.

[Learn More](#)

Request More Information

Name: *

E-mail: *

Phone: *

Subject: *

Message: *

CAPTCHA

This question is for testing whether you are a human visitor and to prevent automated spam submissions.



Submit

Newsletter

Enter your email address to receive the latest marketing tips & news.

Email Address *

Subscribe

Follow us on  Twitter



 Like  Share You and 579 others like this. 579 people like this. Be the first of your

Exhibit C



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Content Marketing with Buzzr:

"White Hat" Wikipedia, Twitter, Facebook and Web Content

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WIKIPEDIA
The Free Encyclopedia

facebook

For Multi-Site Managers

who want to create a structured network of sites.

For Service Providers

who want a digital subscription product with low overhead.

For Educators

who want a turn-key solution at a reasonable price.

For IT Pros

who want enterprise features yet with a simple UI for end users.



An On Demand, Single Sign-On Network of Drupal-Powered Sites

You want a top-down WCMS that let you impose order in the potentially very messy world of multi-site creation and management. Buzzr goes one step further than most WCMS by providing full social network capability across your entire environment, with central user registration, common user profiles and an optional central site dynamically generated from all sites within the environment.

- ✓ Multi-site admin dashboard provides control over all users and websites.
- ✓ Professional caliber site building tools for you, but can be scaled back to pure simplicity for end users.
- ✓ High touch point support from a team with years of Drupal multi-site experience.

- ✓ Create a Quickstart sample site and clone thousands more in a snap.
- ✓ Endlessly customizable environment can leverage 10,000+ open source Drupal modules.
- ✓ Customize per site with dozens of drag and drop features, publishing tools, social media integration, CSS, HTML and javascript.

[Learn More](#)

LULLABOT



Buzzr's development is led by Lullabot, the world's top Drupal consulting and education firms. Clients include Sony, the Grammys, IBM, BBC, The Economist, Walmart, MTV, Harvard, Verizon and many

DRUPAL



Buzzr is "Drupal-Made-Easy." Drupal is the world's most state-of-the-art open source WCMS, with more than 500,000 project participants. Used by The White House, Martha Stewart, Intel, MIT and

RACKSPACE



Buzzr is an official Rackspace Partner and a member of the Rackspace Cloud Tools program. Rackspace is the world's leading cloud hosting firm, famous for fanatical support. We also offer Buzzr on

Overview Video



others.

thousands of large enterprises.

Managed Private Clouds with Rackspace.

BUZZR BLOG

LATEST ON BUZZR HIGHER EDUCATION

Tue, 06/30/2015 - 16:46
[mStoner](#), our partner in the Buzzr Education Content Management System, recently highlighted the dramatic performance optimization we've done on the platform over the past year. as well as several other features.

Here's a reprint of the column from COO Bill McLaughlin.

[> Read more](#)

BUZZR ANNOUNCES CONTENT MARKETING DIVISION WITH WIKIPEDIA, TWITTER AND FACEBOOK SERVICES

Tue, 03/03/2015 - 14:44
(New York) - Buzzr announced today that it would be expanding into content marketing, assisting organizations and individuals with creating online content for their websites, mobile sites and social media presences, such as Wikipedia, Twitter and Facebook.

[> Read more](#)

INTERVIEW WITH BUZZR IN HIGHER ED TECH DECISIONS

Thu, 12/04/2014 - 13:03
Ed Sussman, the CEO of Buzzr, spoke a few weeks ago to Jessica Kennedy, an editor for HigherEdTechDecision.com. Just out, her article, based on the conversation: ["7 Benefits to Redesigning Your University's Website Today."](#)

Canon

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Home Trends & Advice Products Guides & Reports

AV/IT Control & Automation Digital Signage Videoconferencing Mobile All Topics

7 Benefits to Redesigning Your University's Website Today

CEO and Founder of Buzzr Ed Sussman reveals the pluses to upgrading your college's website

By Jessica Kennedy

4 5 0 0

Tweet LinkedIn Share Facebook Like Comments Google+

November 27, 2014

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Exhibit C

Michael J Salvatore

From: Michael J Salvatore
Sent: Wednesday, February 24, 2016 10:57 AM
To: 'Ed Sussman'
Cc: rcoleman@archerlaw.com; Steven M. Weinberg; Nelda Piper
Subject: RE: "BUZZR" Trademark Opposition // Demand for Outstanding Discovery Responses

Mr. Sussman,

We disagree with your view that serving substantive responses to the outstanding discovery requests in this matter would be prejudicial to Codename. Codename instituted this proceeding and has an obligation to respond to discovery requests absent a Board order or other authority suspending its time to do so, neither of which exist. Because your below request for an extension of time was not as you represented "due to various issues with technology, business and outside legal counsel," withholding your responses after requesting this extension is a sharp litigation tactic made in bad faith that prejudices FremantleMedia.

Accordingly, we reserve our client's right to move forward with a motion to compel.

Sincerely,

Michael J. Salvatore, Esq.
[Holmes Weinberg, PC](#)
30765 Pacific Coast Highway, Ste. 411 | Malibu CA 90265
t: 310.457.6100 x 201 | c. 914.263.1001 | f: 310.457.9555
msalvatore@holmesweinberg.com | www.holmesweinberg.com | [Bio](#)

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From: Ed Sussman [mailto:emsussman@gmail.com]
Sent: Wednesday, February 24, 2016 8:11 AM
To: Michael J Salvatore <MSalvatore@holmesweinberg.com>
Cc: rcoleman@archerlaw.com; Steven M. Weinberg <smweinberg@holmesweinberg.com>; Nelda Piper <NPiper@holmesweinberg.com>
Subject: Re: "BUZZR" Trademark Opposition // Demand for Outstanding Discovery Responses

Dear Mr. Salvatore,

Notwithstanding our pending motion for a stay, we can, if you wish, serve a response which will consist entirely of objections based on the pendency of that motion. Substantively, our objection will be based on the continuation of discovery in this or any related TTAB action in view of the pending litigation in the Southern District of New York because such disclosure would be prejudicial to Codename Enterprises, Inc. in the District Court matter, in which discovery has not yet begun.

It is not clear that any interest under the Rules is served by our service of such a pro forma response considering that your client is aware of our objection, as it has been since the filing of our motion. If, however, your client deems it worthwhile to file a motion to compel even while our motion for a stay is pending, we cannot prevent it from doing so, and will respond appropriately if the stay is not entered by that time.

Sincerely,

Edward Sussman

Ed Sussman
CEO
Buzzr
Catch the Buzz!

Buzzr.com
@Buzzr

(p) [646-283-9427](tel:646-283-9427) (direct)
(p) [917-410-1490](tel:917-410-1490) (main)

On Tue, Feb 23, 2016 at 7:54 PM, Michael J Salvatore <MSalvatore@holmesweinberg.com> wrote:

Dear Mr. Sussman:

We are writing because the outstanding discovery requests in this matter are now past due. In the below email, you requested a two week extension to respond to the requests with a due date of February 19, 2016, "due to various issues with technology, business and outside legal counsel," which we granted to you in good faith. While we are aware that you have filed a Motion to Suspend this matter for a civil action, such a pending motion does not remove your obligation to respond to outstanding discovery requests. In that connection, we are writing to demand that these discovery responses be served to us by no later than the close of business on February 25, 2016. If we do not receive the responses by that time, we will be forced to file a Motion to Compel with the Board.

Thank you,

Michael J. Salvatore, Esq.

Holmes Weinberg, PC

30765 Pacific Coast Highway, Ste. 411 | Malibu CA 90265

t: [310.457.6100](tel:310.457.6100) x 201 | c. [914.263.1001](tel:914.263.1001) | f: [310.457.9555](tel:310.457.9555)

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copying of this message is strictly prohibited. If you have received this message in error, please notify us immediately by e-mail, and delete the original message and any attachments.

From: emsussman@gmail.com [mailto:emsussman@gmail.com] **On Behalf Of** Ed Sussman
Sent: Friday, January 29, 2016 10:54 AM
To: Michael J Salvatore <MSalvatore@holmesweinberg.com>; Steven M. Weinberg <smweinberg@holmesweinberg.com>
Cc: Nelda Piper <NPiper@holmesweinberg.com>
Subject: Re: Initial Disclosures by Codename Enterprises Re: "BUZZR" Trademark Opposition

Gentlemen,

Regarding your discovery requests (Admission, Interrogatories, Production of Documents), I would like to request a two week extension due to various issues with technology, business and outside legal counsel. The newly proposed due date is February 19, 2016.

As per parties mutual agreement following pre-trial conference on October 29, 2015 that e-mail service would be acceptable as an alternative to mail, I am making this request solely by e-mail.

Please let me know if this is acceptable.

Regards,

Edward Sussman
[Buzzr](http://buzzr.com)
ed@buzzr.com
[646-283-9427](tel:646-283-9427)

On Wed, Nov 25, 2015 at 4:34 PM, Ed Sussman <ed@buzzr.com> wrote:

Mr. Salvatore:

In accordance with the parties mutual agreement following pre-trial conference on October 29, 2015 that e-mail service would be acceptable as an alternative to mail in the matter of the opposition of Codename Enterprises, Inc. to the registration of the "BUZZR" mark by FreemantleMedia North America, Inc., please find attached herein the INITIAL DISCLOSURES for Opposition No. 91223324.

If there is any problem with this electronic transmission, please notify me immediately and I will resend the document.

Sincerely,

Edward Sussman
[Buzzr](http://buzzr.com)